



**NEW MEXICO  
ENVIRONMENT DEPARTMENT**



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Lieutenant Governor

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RYAN FLYNN  
Cabinet Secretary  
BUTCH TONGATE  
Deputy Secretary

**CERTIFIED RETURN RECEIPT REQUESTED  
7005 1820 0001 5772 3170**

May 12, 2015

Kenneth Bergeron  
Tierra Monte Water Users Association  
17 Tierra Monte DR NE  
Albuquerque, NM 87122

**RE: Administrative Compliance Order, No. 2015-ACO-04 Tierra Monte Water Users Association, PWS# NM3548201**

Mr. Bergeron,

Please find attached Administrative Compliance Order No. 2015-ACO-04 issued to Tierra Monte Water Users Incorporated, for Tierra Monte Water Users Association, PWS# NM3548201, under the Environmental Improvement Act, NMSA 1978, § 74-1-10, the Drinking Water Regulations, 20.7.10 NMAC. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Tierra Monte Water Users Incorporated has a right to answer the allegations in the Order and request a hearing, NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Maria J. Medina, Enforcement Coordinator, at 505-476-8629 or via email at [maria.medina@state.nm.us](mailto:maria.medina@state.nm.us).

Sincerely,

Trais Kliphuis, Division Director  
Water Protection Division

cc. Wayne Jeffs, Compliance Officer  
Jenna Manheimer, Region 6, EPA (Electronic)  
P:\-ENFORCEMENT\Individual PWS Enforcement Info  
Central File

**STATE OF NEW MEXICO**  
**SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT  
WATER PROTECTION DIVISION,

Complainant,

No. 2015-ACO-04

v.

TIERRA MONTE WATER USERS INCORPORATED,  
Respondent.

**ADMINISTRATIVE COMPLIANCE ORDER**

Pursuant to the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-10, and the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC, the Secretary of the New Mexico Environment Department (“NMED”), acting through the Director of the Water Protection Division of the NMED, issues this Administrative Compliance Order (“Order”) to Tierra Monte Water Users Incorporated (“Respondent”) to enforce the EIA and DW Regulations.

**FINDINGS**

1. The NMED is an executive agency within the government of the State of New Mexico and is charged with administration and enforcement of the EIA and DW Regulations.

2. Respondent owns and operates a public drinking water system (“System”) Tierra Monte Water Users Association, PWS# NM3548201, located in Bernalillo County, New Mexico.

3. The System is a Community water system, as defined by Section 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.2], that regularly provides piped drinking water to approximately eighty five (85) residents and has approximately thirty one (31) service connections to serve these residents.

4. Respondent, Tierra Monte Water Users Incorporated, is a “person” as defined by the EIA, NMSA 1978, § 74-1-3 and 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.2].

5. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(e) and 141.26(c)(3)(i)], defines the Maximum Contaminant Level (MCL) for Uranium is 30 micrograms per liter (µg/L) and states compliance with the MCL for Uranium is determined by a running annual average (RAA).

6. On May 20, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the Uranium MCL at entry point #1 during the first (1<sup>st</sup>) and second (2<sup>nd</sup>) quarters of 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

7. On October 24, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for exceeding the Uranium MCL at entry point #1 during the third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) quarters of 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

## **VIOLATION 1**

8. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(e) and 141.26(c)(3)(i)], which defines the MCL for Uranium is 30 µg/L and states compliance with the MCL for Uranium is determined by a RAA. Respondent exceeded the MCL for Uranium at entry point #1 during the first (1<sup>st</sup>), second (2<sup>nd</sup>), third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) quarters of 2014 with a RAA concentration of 41 µg/L, 48 µg/L, 46 µg/L, and 47 µg/L respectively.

## **RETURN TO COMPLIANCE**

Based upon the foregoing, Respondent is hereby ordered to comply with the following:

9. By June 30, 2015, submit a proposed corrective action plan (CAP) to NMED for review identifying the steps that will be taken to bring the water system into full compliance with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(e) and 141.26(c)(3)(i)].

10. By March 31, 2016, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.66(e)], and provide drinking water with concentrations of Uranium below the MCL of 30 µg/L.

11. By March 31, 2017, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.26(c)(3)(i)], and have a RAA for Uranium below the MCL of 30 µg/L.

12. Submittals made pursuant to paragraphs 9 through 11 of this Order shall be sent by standard U.S. mail or certified mail with return receipt requested to the following:

Maria J. Medina, Enforcement Coordinator  
New Mexico Environment Department  
Drinking Water Bureau  
P.O. Box 5469  
Santa Fe, NM 87502-5469

**If respondent fails to comply with the requirements of paragraphs 9 through 12 of this order, the Secretary of NMED may assess additional civil penalties not to exceed one thousand dollars (\$1,000) for each instance of noncompliance with this order.**

#### **RIGHT TO ANSWER AND REQUEST A HEARING**

Pursuant to NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matters upon which this Order is based; (b) contends that Respondent is entitled to prevail as a matter of law; or (c) otherwise contests the appropriateness of this Order, Respondent may mail or deliver within thirty (30) days of receipt of this Order a written Request for Hearing at the following address:

Hearing Clerk  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, New Mexico 87502

Respondent must attach a copy of this Order to the Request for Hearing. 20.1.5.200.A(2)(d) NMAC.

The Request for Hearing shall include an Answer. Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Order with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a

particular factual allegation, Respondent should so state, and the Respondent may deny the allegation on that basis. Any allegation in this Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

Respondent's Answer shall also include any affirmative defenses upon which Respondent intends to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.5.200.A(2)(b) NMAC.

Respondent's Answer shall be signed under oath or affirmation that the information contained therein is to the best of the signer's knowledge believed to be true and correct. 20.1.5.200.A(2)(c) NMAC.

## **FINALITY OF ORDER**

Pursuant to NMSA 1978, §§ 61-33-10.E and § 74-1-10.E, this Order shall become final unless the Respondent files a Request for Hearing with the Hearing Clerk within thirty (30) days of receipt of this Order.

## **SETTLEMENT CONFERENCE**

Whether or not a Request for Hearing has been filed, Respondent may confer with the NMED concerning settlement of this Order. The NMED encourages settlement consistent with the provisions and objectives of the EIA and the DW Regulations. Settlement discussions neither extend the thirty (30) day deadline for filing a Request for Hearing and Answer nor alter the deadline imposed for compliance with the mandate of this Order. Settlement discussion may be pursued as an alternative to, and simultaneously with, the hearing proceedings. Respondent may appear at the settlement conference alone or accompanied or represented by legal counsel.

A Stipulated Final Order shall finalize any settlement reached by the parties. The Stipulated Final Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.

To explore the possibility of settlement in this matter, contact Maria J. Medina, Drinking Water Bureau, New Mexico Environment Department, P.O Box 5469, Santa Fe, New Mexico 87502-5469, (505) 476-8629.

## COMPLIANCE WITH OTHER LAWS

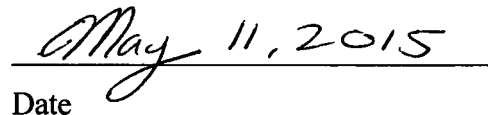
Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations. This Order does not constitute a waiver, suspension, or modification of the requirements of 20.7.10 NMAC and 20.7.4 NMAC which remain in full force and effect. Issuance of this Order is not an election by the NMED to forgo any civil or criminal action otherwise authorized under the EIA.

## TERMINATION

This Order shall terminate when Respondent certifies that all requirements of this Order have been met and the NMED has approved such certification in writing, or when the Secretary approves a Stipulated Final Order.



Trais Kliphuis  
Division Director  
Water Protection Division  
P.O. Box 5469  
Santa Fe, New Mexico 87502-5469



Date

## Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on May 12, 2015 via certified return receipt requested to the following:

Kenneth Bergeron  
Tierra Monte Water Users Association  
17 Tierra Monte DR NE  
Albuquerque, NM 87122



Maria J. Medina